

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MONOLITHIC POWER SYSTEMS, INC., a
Delaware corporation,

Plaintiff,

v.

TAIWAN SUMIDA ELECTRONICS, INC., a
Taiwan corporation,

Defendant.

No. C 05-3522 CW

ORDER DENYING
DEFENDANT'S
MOTION FOR
PARTIAL JUDGMENT
ON THE PLEADINGS

TAIWAN SUMIDA ELECTRONICS, INC., a
Taiwan corporation,

Counterclaimant,

v.

MONOLITHIC POWER SYSTEMS, INC., a
Delaware corporation,

Counterclaim Defendant.

Defendant and Counterclaimant Taiwan Sumida Electronics, Inc.
(Sumida) moves for partial judgment on the pleadings. Plaintiff
and Counterclaim Defendant Monolithic Power Systems, Inc. (MPS)

1 opposes the motion. The matter was heard on May 26, 2006. Having
2 considered all of the papers filed by the parties and oral argument
3 on the motion, the Court denies Sumida's motion.

4 BACKGROUND

5 On December 25, 2002, MPS and Sumida entered into a written
6 indemnification agreement. The agreement is governed by California
7 law. It provides:

8 2. MPS and SUMIDA agree that MPS has the right to defend or
9 at its option to settle, and MPS agrees, at its own
10 expense, to defend or at its option to settle any claim,
11 suit or proceeding brought against SUMIDA alleging
12 infringement of any patent owned by O2 Micro
13 International Limited or O2 Micro, Inc. (collectively,
14 "Action") for the sale of any Product or any combination
15 including a Product wherein such infringement would not
16 occur but for such Product being a part of such
combination, subject to the limitations hereinafter set
forth. MPS shall have sole control of any such Action or
settlement negotiations, and MPS agrees to pay any and
all expenses, losses, damages, demands, liabilities and
expenses (including attorneys' fees and court costs), and
final judgment entered against SUMIDA, or settlement
amount agreed to by MPS, in any such Action, subject to
the limitations hereinafter set forth.

17 3. SUMIDA agrees to notify MPS promptly in writing of such
18 Action, gives MPS authority to proceed as contemplated
19 above, and gives MPS proper and full information and
20 assistance to defend and/or settle any such Action.

21 On January 26, 2003, O2 Micro International, Ltd. (O2 Micro)
22 filed a complaint in the United States District Court for the
23 Eastern District of Texas, alleging patent infringement by Sumida.
24 Pursuant to the indemnification agreement, MPS defended Sumida in
25 the Texas action.

26 While MPS was defending Sumida in Texas, MPS was also engaged
27 in litigation with O2 Micro before this Court. The Northern
28

1 California District litigation¹ revolved around use of a MPS
2 integrated circuit in combination with Sumida's transformer. Also
3 at issue was whether MPS misappropriated O2 Micro's trade secrets.
4 On July 18, 2005, after an eleven-day trial, the jury ruled against
5 MPS in the Northern California action.

6 Trial was set in the Texas action for September 19, 2005. On
7 August 30, 2005, MPS terminated its indemnification agreement with
8 Sumida. According to MPS, Sumida materially breached the agreement
9 by failing to provide full information and assistance, as section 3
10 of the agreement required. Specifically, MPS alleges that, in
11 order to defend itself in the Northern California action and to
12 defend Sumida in the Texas action, it requested information and
13 assistance from Sumida on numerous occasions. Despite the fact
14 that the information and assistance requested as to both the
15 Northern California and Texas actions were directly relevant to the
16 Texas action, Sumida failed to provide all the requested
17 information and assistance. MPS contends that the verdict against
18 it in the Northern California action was caused, at least in part,
19 by Sumida's failure to provide the requested assistance and
20 information. O2 Micro has sought to use the verdict and evidence
21 from the Northern California action against Sumida in the Texas
22 action. MPS alleges that Sumida's failure to provide the requested
23 information and assistance deprived MPS of its right to control the
24 Texas action and deprived it of benefits expected under the

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26 ¹Although the Northern California District litigation
27 consisted of two cases, because those cases were consolidated for
28 trial, the Court refers to the litigation as the Northern
California action. See C 00-4071 CW and C 01-3995 CW.

1 indemnification agreement.

2 After terminating the indemnification agreement, MPS sued
3 Sumida for breach of contract and breach of the covenant of good
4 faith and fair dealing. Sumida has countersued, claiming that,
5 under the indemnification agreement, its duty to provide MPS with
6 "full information and assistance to defend and/or settle" did not
7 extend to information relevant only to the Northern California
8 litigation between MPS and O2 Micro.

9 LEGAL STANDARD

10 Federal Rule of Civil Procedure 12(c) provides, "After the
11 pleadings are closed but within such time as not to delay the
12 trial, any party may move for judgment on the pleadings." Judgment
13 on the pleadings is proper when the moving party clearly
14 establishes on the face of the pleadings that no material issue of
15 fact remains to be resolved and that it is entitled to judgment as
16 a matter of law. Hal Roach Studios, Inc. v. Richard Feiner & Co.,
17 Inc., 896 F.2d 1542, 1550 (9th Cir. 1990). In considering a motion
18 for judgment on the pleadings, the Court must accept the
19 allegations of the non-moving party as true; the allegations of the
20 moving party which have been denied are assumed to be false. Id.

21 DISCUSSION

22 Sumida seeks judgment on the pleadings that its duty under the
23 indemnification agreement to provide MPS with "full information and
24 assistance to defend and/or settle" the Texas action did not extend
25 to information relevant only to the litigation between MPS and O2
26 Micro in the Northern District of California. Sumida explains that

1 it is not arguing that it could not be obliged to provide
2 information for use in the Texas action that might have also been
3 useful in the Northern California action. Rather, it argues that
4 it was not obliged under the agreement to provide testimony,
5 evidence and information for use in the Northern California action,
6 because the agreement only requires that it provide information and
7 assistance to defend and/or settle "any such Action." The
8 agreement defines an "Action" as "any claim, suit or proceeding
9 brought against SUMIDA alleging infringement of any patent owned by
10 O2 Micro." According to Sumida, the Northern California action is
11 not an action within the scope of the agreement.

12 As noted above, California law governs any dispute under the
13 indemnification agreement. In its moving papers, Sumida states
14 that, under California law, the interpretation of contract language
15 is a question of law and if the contractual language is clear, it
16 governs. In re Bennett, 298 F.3d 1059, 1064 (9th Cir. 2002).
17 However, in applying California law to contracts, courts often look
18 at extrinsic evidence. California Code of Civil Procedure § 1856
19 provides that, even when a contract is integrated, the evidence of
20 the circumstances under which the agreement was made, or evidence
21 "to explain an extrinsic ambiguity or otherwise interpret the terms
22 of the agreement," may be considered.

23 In Founding Members of the Newport Beach Country Club v.
24 Newport Beach Country Club, Inc., 109 Cal. App. 4th 944 (2003), the
25 court explained the "Controlling Principles of Contract
26 Interpretation":
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1 The basic goal of contract interpretation is to give effect to
2 the parties' mutual intent at the time of contracting. When a
3 contract is reduced to writing, the parties' intention is
4 determined from the writing alone, if possible. The words of
5 a contract are to be understood in their ordinary and popular
6 sense. Extrinsic evidence is admissible to prove a meaning to
7 which the contract is reasonably susceptible. If the trial
8 court decides, after receiving the extrinsic evidence, the
9 language of the contract is reasonably susceptible to the
10 interpretation urged, the evidence is admitted to aid in
11 interpreting the contract. Thus, the test of admissibility of
12 extrinsic evidence to explain the meaning of a written
13 instrument is not whether it appears to the court to be plain
14 and unambiguous on its face, but whether the offered evidence
15 is relevant to prove a meaning to which the language of the
16 instrument is reasonably susceptible.

17 109 Cal. App. 4th at 955-56 (citations and quotation omitted).

18 The term "Action" is clearly defined in the agreement. But
19 Sumida's obligation to give MPS "full information and assistance to
20 defend and/or settle any such Action" is not clearly defined;
21 rather, it is a broad obligation, the scope of which is not
22 specifically constrained and is disputed by the parties. To
23 determine the scope of the agreement and the meaning of the term
24 "full information and assistance to defend and/or settle any such
25 Action," extrinsic evidence is admissible. Because extrinsic
26 evidence cannot be considered on a motion for judgment on the
27 pleadings, the motion cannot be granted. Sumida fails to establish
28 clearly on the face of the pleadings that no material issue of fact
remains to be resolved and that it is entitled to judgment as a
matter of law.

CONCLUSION

For the foregoing reasons, the Court DENIES Sumida's motion

1 for partial judgment on the pleadings (Docket No. 22).²

2 IT IS SO ORDERED.

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4 Dated: 6/2/06



5 CLAUDIA WILKEN
6 United States District Judge
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27 ² Sumida's Request for Judicial Notice (Docket No. 25) is
28 GRANTED.